

0Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit: 3751  
Confirmation No.: 5084

REMARKS

The instant Amendment is filed in response to the Examiner's action dated May 20, 2003. Reconsideration is respectfully requested.

Claims 1-13 are currently pending.

Claims 1-13 stand rejected.

Claim 1 has been amended.

Claim 14 has been added.

The Examiner has rejected claims 1-13 under 35 U.S.C. 102(b) as being anticipated by Hori. Specifically, the official action indicates that Hori discloses a nib constituted of a segment of a coherent, elongated rod/element of high porosity polyester fiber material with at least a first end shaped to form a writing tip. The official action further indicates that the material includes pores or capillaries blocked over a limited thickness. However, the Applicants respectfully point out that an object of the Hori device and method is to eliminate non-uniformity in the fiber density in the center part of a pen core cross-section. To that end, Hori describes a dielectric heating process in which the amount of heat generation can be controlled. When heat generation

Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit:3751  
Confirmation No.:5084

is small, a resin content is made to solidify in a layer near the outer periphery of the pen core - when heat generation is large, the resin content concentrates on the center part of the pen core and solidifies there. In this way, various grades of pen cores having different hardness (e.g., from soft to hard) can be obtained (see column 3, lines 25-28, and column 5, lines 1-11, of Hori).

In contrast, the Applicants seek to increase the length of time it is possible to leave a nib in the open air, without any effects that might prevent the implement from being used. To that end, pores or capillaries of the material constituting the nib are blocked over a limited thickness at the longitudinal outer periphery of the elongate element, with the exception of the writing tip end, as recited in amended claim 1. Clearly, the resin that is made to solidify at selected depths in the Hori device - from the outer periphery to the center part of the pen core - does not operate to block the pores or capillaries of the pen core (as recited in amended claim 1) because doing so would render the Hori device inoperative. The pen core of Hori having pores or capillaries blocked from the outer periphery to the center part of the core cannot operate as a useful writing

0Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit:3751  
Confirmation No.:5084

implement. The Hori reference therefore fails to anticipate a nib comprising an elongate element made of high porosity material with pores or capillaries blocked over a limited thickness at the longitudinal outer periphery of the elongate element, as recited in amended claim 1. Such a nib can be used to increase the length of time it is possible to leave the writing implement in the open air without undesirable effects, e.g., evaporation of the ink solvent.

With respect to amended claim 7, the Applicants respectfully point out that the step of impregnating is made on a coherent high porosity elongate element. In one embodiment, a coherent rod is formed by a tow of continuous filament or a ribbon of discontinuous fibers juxtaposed and held together (see page 5, lines 14-17, of the application). Accordingly, amended claim 7 recites the steps of impregnating and setting of a binder to obtain a coherent element, and impregnating of a sealing agent. In contrast, the Hori reference merely discloses the steps of impregnating of a binder and setting of this binder under particular conditions.

BEST AVAILABLE COPY

0Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit:3751  
Confirmation No.:5084

On page 3 of the above-referenced Office action, the Examiner states that it appears that the dielectric heating process of Hori is merely for solidifying the liquid resin on the periphery of the filament rod-shaped body and not at the pen core. However, the Applicants respectfully direct the Examiner's attention to column 7, lines 31-35, of the Hori reference, which indicate that "when the dial is set on "20", the resin content uniformly disperses and solidifies throughout the rod-shaped body in its cross-section, and the lines written therewith are thin, so that the produced pen core is suitable for writing small letters and characters." Clearly, when the resin content uniformly disperses and solidifies throughout the rod-shaped body in its cross-section in the Hori device, the pores and capillaries are not being blocked according to the meaning of this term given in the present application. If the pores and capillaries throughout the cross-section of the Hori device were blocked to create an airtight barrier, as recited in amended claim 1, the resulting device would not be a functional writing implement.

Specifically, in the Hori device, it would be impossible to transfer ink in the zone where the pores and capillaries are blocked, which can extend throughout the cross-section of the

0Application No. 10/009,885

Filed: January 22, 2002

TC Art Unit:3751

Confirmation No.:5084

device. In the present application, such a zone covers a limited thickness at the longitudinal outer periphery of the elongate element, thereby creating a barrier preventing the ink solvent from evaporating (see page 3, lines 27-32, of the application).

The Applicants respectfully point out that the resin employed in the Hori device is merely a conventional binder for fabricating high porosity materials made of fibers juxtaposed and held together by the binder. The Hori dielectric heating process allows the resin content to vary between the outer and the center part of the pen core to obtain various grades of pen cores having different hardness. Because the Hori device is presumed to be operative, the entire zone containing solidified resin, ranging from the periphery to the core center, is presumed to be capable of transferring ink - the pores and capillaries within that zone are not blocked to create an airtight barrier, as recited in amended claim 1.

Accordingly, the Applicants respectfully submit that the rejections of claims 1-13 under 35 U.S.C. 102(b) are unwarranted and should be withdrawn.

0Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit:3751  
Confirmation No.:5084

With respect to newly added claim 14, the limitations recited in this claim directed to a writing implement are described throughout the application, e.g., see page 1, lines 5-7, page 2, lines 32-33, page 3, line 9 and lines 29-36, page 5, line 37, page 6, line 6 and lines 19-22, page 9, lines 5-10, and page 10, lines 10-13 and lines 25-27, of the application.

In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of

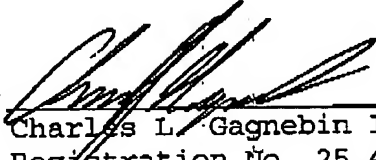
Application No. 10/009,885  
Filed: January 22, 2002  
TC Art Unit: 3751  
Confirmation No.: 5084

the present application.

Respectfully submitted,

JOSÉ DUEZ, ET AL.

By:

  
Charles L. Gagnebin III  
Registration No. 25,467  
Attorney for Applicants

WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEOVICI LLP  
Ten Post Office Square  
Boston, MA 02109  
Telephone: (617) 542-2290  
Telecopier: (617) 451-0313

BEST AVAILABLE COPY

CLG/lkw  
Enclosure  
297115

RECEIVED  
CENTRAL FAX CENTER  
OCT 20 2003

OFFICIAL

-13-

WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEOVICI LLP  
TEL. (617) 542-2290  
FAX (617) 451-0313

Received from <16174510313> at 10/17/03 3:38:58 PM [Eastern Daylight Time]